
(2016) 04 JH CK 0021
In the Jharkhand High Court
Case No : A.B.A. No. 3303 of 2015

Awadesh Singh @ Awadhesh Kumar Singh	APPELLANT
Vs	
State of Jharkhand	RESPONDENT

Date of Decision : 04-04-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438
Penal Code, 1860 (IPC) — Section 201, 302, 34

Citation : (2016) 3 ECrC 205

Hon'ble Judges : Mr. Rongon Mukhopadhyay, J.

Bench : Single Bench

Advocate : Mr. A. K. Das, Advocate, for the Appellant; Md. Sajid Yunus, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Mr. Rongon Mukhopadhyay, J.— Heard Mr. A.K. Das, learned counsel appearing for the petitioner and Mr. Abhinesh Kumar, learned A.P.P. for the State assisted by Md. Sajid Yunus, learned counsel appearing for the informant.

2. Petitioner has prayed for grant of anticipatory bail, as he is apprehending his arrest in connection with Mandu (Kuju) P. S. Case No. 218 of 2015 corresponding to G. R. No. 2188 of 2015 registered for the offences punishable under Sections 302, 201/34 of the Indian Penal Code.

3. The allegations which have been made in the First Information Report suggest that the deceased brother of the informant had developed intimacy with the niece of the petitioner. It has alleged that on 16.05.2015 the petitioner had called the deceased and on 17.05.2015 the tutor of the deceased namely Prabin Kumar had received an SMS in his mobile number wherein it was mentioned that the deceased was being confined by the petitioner and if any untoward things happens to the petitioner Dadan Singh as well as this petitioner shall be held responsible. Subsequently, it is stated that a dead body was found near Rauta forest which was identified to be the body of the brother of the informant.

4. Mr. A.K. Das, learned counsel appearing for the petitioner, has submitted that after investigation police had obtained the C.D.R. of the deceased in which it was detected that on the date of the alleged occurrence thirteen SMSs were sent from his mobile which does not support the fact that the deceased was under duress. It has been submitted that no investigation has been carried out with respect to the contents of the SMS which was sent or with respect to the recipients of the SMS so as to connect with the allegation which has been made in the First Information Report. Learned counsel further submits that on complaint made to the police the deceased was called to the police station wherein he had destroyed the SIM which was used by him and which has come in Paragraph - 88 of the case diary. It has been submitted that the SIM which was used by the deceased prior to his death was in the name of some other person. Learned counsel further submits that no details have been furnished by the police in course of the investigation with respect to the mobile of the tutor. Learned counsel further submits that the location of the petitioner at the time of the incident was also not verified by the Investigating Officer and all the circumstances enumerated goes to suggest that the petitioner has been implicated without any basis.

5. Mr. Abhinesh Kumar, learned A.P.P., has submitted that after the Investigating Officer had gone to Aurangabad for further investigation into the matter he had obtained the call details report and has also seized the mobile of the tutor. Learned A.P.P. further submits that Paragraph - 85 of the case diary reflects the statement of the tutor in which he has clearly stated about the SMS which was received by him on 16.05.2015 and which indicated that the petitioner was confined and his life was under threat. It has been submitted that other witnesses have also stated about the involvement of the petitioner in committing the murder of the deceased brother of the informant.

6. Md. Sajid Yunus, learned counsel appearing for the informant, has submitted that the present case relates to honour killing. Learned counsel submits that the call details report suggest that on 16.05.2015 the deceased was at Aurangabad whereas on 17.05.2015 he had come to Ramgarh where he was confined by the petitioner and others and subsequently the dead body was also found at Ramgarh. It has, therefore, been submitted that the chain of circumstances being complete the involvement of the petitioner becomes apparent and in such circumstances the prayer for anticipatory bail is liable to be rejected.

7. It appears that the initial investigation was going on in a very lackadaisical manner but subsequently on the permission received from the higher authority Investigating Officer had visited Aurangabad and had collected the mobile of the tutor as well as examined the tutor under Section 161 of the Cr.P.C. The statement of the tutor substantiates the allegations which has been made in the First Information Report with respect to receiving the SMS although till date the police has not come out with any evidence to suggest that the mobile phone seized from the tutor still contains the SMS which was sent. It is not in dispute

that on the date of the incident thirteen SMS was sent by the deceased and the location of the deceased was also found to be at Ramgarh. The surrounding circumstance does suggest that there is connectivity with the SMS which was allegedly sent by the deceased, the presence of the petitioner at Ramgarh as would appear from the SMS as well as the presence of the deceased at Ramgarh and such circumstances do suggest the complicity of the petitioner in the commission of the offence.

8. In view of the aforesaid facts, I do not find it a fit case for anticipatory bail which is, accordingly, rejected.

9. If the petitioner surrenders in the trial court within three weeks, the learned trial court shall consider the bail application of the petitioner and dispose of the same without being prejudiced by this order.